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HOUSE BILL 825

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Jimmie C. Hall

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING NEW DOCUMENT REQUIREMENTS FOR PROVING AGE AND IDENTITY; REQUIRING ACCESS OF ANY ELECTRONICALLY READABLE INFORMATION; PROHIBITING THE RETENTION OR MARKETING OF INFORMATION ACCESSED; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-7B-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 82, as amended) is amended to read:

"60-7B-2. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY.-- Evidence of the age and identity of ~~[the]~~ a person may be shown by any document ~~[which]~~ that contains the person's name, date of birth and a picture of the person issued by a federal, state, county or municipal government, or subdivision or agency thereof, including but not limited to a motor vehicle

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1 operator's license or an identification card issued to a member  
2 of the armed forces. If that document does not contain  
3 electronically readable information, evidence of the identity  
4 of the person shall be verified by a second document that  
5 contains the person's name and a picture of the person issued  
6 by a federal, state, county or municipal government or a  
7 subdivision or agency of a governmental entity."

8 Section 2. Section 60-7B-5 NMSA 1978 (being Laws 1981,  
9 Chapter 39, Section 85, as amended) is amended to read:

10 "60-7B-5. [~~REFUSAL TO SELL OR SERVE~~] VERIFYING AGE OF  
11 PERSON BEING SOLD OR SERVED ALCOHOLIC BEVERAGES--[~~TO PERSON~~  
12 ~~UNABLE TO PRODUCE IDENTITY CARD~~] RETAINING OR MARKETING  
13 INFORMATION PROHIBITED--PENALTY.--[~~Any~~]

14 A. A person licensed pursuant to the provisions of  
15 the Liquor Control Act or any employee, agent or lessee of that  
16 person shall [~~refuse to~~] not sell or serve alcoholic beverages  
17 to [~~any~~] a person [~~who is unable to produce an identity card as~~ as  
18 evidence that he is twenty-one years of age or over] without  
19 first verifying that the person is twenty-one years of age or  
20 over by requiring the presentation of documentary evidence of  
21 age and identity and accessing any electronically readable  
22 information on the documentary evidence.

23 B. A person who retains or markets information that  
24 is electronically accessed from documentary evidence pursuant  
25 to Subsection A of this section is guilty of a fourth degree

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1 felony and shall be sentenced pursuant to the provisions of  
2 Section 31-18-15 NMSA 1978."

3 Section 3. Section 60-7B-6 NMSA 1978 (being Laws 1981,  
4 Chapter 39, Section 86, as amended) is amended to read:

5 "60-7B-6. DEMANDING AND SEEING DOCUMENTARY EVIDENCE OF  
6 AGE AND IDENTITY [CARD] AND ACCESSING ELECTRONICALLY READABLE  
7 INFORMATION BEFORE FURNISHING ALCOHOLIC BEVERAGES.--In any  
8 criminal prosecution or in any proceedings for the suspension  
9 or revocation of a license or in any proceeding for violation  
10 of a municipal or county ordinance prohibiting the gift, sale  
11 or service of alcoholic beverages to minors, proof that the  
12 accused licensee in good faith demanded and was shown [~~an~~]  
13 documentary evidence of age and identity [card] and accessed  
14 any electronically readable information on the documentary  
15 evidence before furnishing any alcoholic beverages to a minor  
16 shall be a defense to the prosecution or proceedings."

17 Section 4. Section 60-7B-13 NMSA 1978 (being Laws 1993,  
18 Chapter 68, Section 27) is amended to read:

19 "60-7B-13. STOCKING ALCOHOLIC BEVERAGES IN WET BARS IN  
20 HOTEL GUEST ROOMS PROHIBITED--ROOM SERVICE.--

21 A. It is a violation of the Liquor Control Act for  
22 the proprietor or manager of a hotel to stock alcoholic  
23 beverages in a wet bar located in [~~any~~] a guest room or  
24 sleeping room in the hotel unless the alcoholic beverages are  
25 contained in a locked compartment, the key to which may be made

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1 available to a guest after ~~[he]~~ the guest has produced  
2 documentary evidence of ~~[his]~~ age and identity ~~[by any document~~  
3 ~~that contains a picture of the guest issued by a federal,~~  
4 ~~state, county or municipal government, or subdivision or agency~~  
5 ~~thereof, including but not limited to a motor vehicle driver's~~  
6 ~~license or an identification card issued to a member of the~~  
7 ~~armed forces]~~ and an employee of the hotel has accessed any  
8 electronically readable information on the documentary  
9 evidence.

10 B. Nothing in this section shall be construed to  
11 prevent:

12 (1) the consumption of alcoholic beverages by  
13 ~~[any]~~ a person in a hotel guest room or sleeping room; or

14 (2) the sale or delivery of alcoholic  
15 beverages through room service to persons in hotel guest rooms  
16 or sleeping rooms; provided ~~[any]~~ that an employee of a hotel  
17 proprietor or manager delivering alcoholic beverages to a  
18 sleeping room ~~[may]~~ shall require that ~~[an identity card~~  
19 ~~showing proof]~~ documentary evidence of age and identity be  
20 shown and shall access any electronically readable information  
21 on the documentary evidence to assure that alcoholic beverages  
22 are not sold, delivered or served to a minor in violation of  
23 the Liquor Control Act.

24 C. As used in this section, "wet bar" means a  
25 refrigerator, ice chest, cabinet, cupboard, pantry or similar

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1 container or storage area that is customarily used to store  
2 alcoholic or nonalcoholic beverages for consumption.

3 D. A person who retains or markets information that  
4 is electronically accessed from documentary evidence pursuant  
5 to Subsection A or B of this section is guilty of a fourth  
6 degree felony and shall be sentenced pursuant to the provisions  
7 of Section 31-18-15 NMSA 1978."

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